

East Bellevue Community Council
Summary Minutes of Regular Meeting

February 4, 2003
6:30 PM

Lake Hills Community Clubhouse
Bellevue, Washington

PRESENT: Chair Bell, Councilmembers Keeffe and Seal

ABSENT: Councilmembers Halgren and Wiechmann

STAFF: Mary Kate Berens, Legal Planner
Antoinette Pratt, Associate Planner

1. CALL TO ORDER

The meeting of the East Bellevue Community Council was called to order at 6:30 PM with Chair Bell presiding. Chair Bell led the flag salute.

2. ROLL CALL

Roll was called by the Deputy City Clerk. All Councilmembers were present with the exception of Mr. Halgren and Ms. Wiechmann.

Chair Bell noted an email from Ms. Wiechmann requesting that her absences be excused for this and the next two monthly meetings.

Mr. Keeffe moved to excuse Ms. Wiechmann's absences from the February through April 2003 regular meetings of the East Bellevue Community Council. Mr. Seal seconded the motion which carried 3-0.

3. COMMUNICATIONS – WRITTEN AND ORAL

Nat Franklin, owner of Kelsey Creek Shopping Center, presented conceptual planning for the existing two-story structure adjacent to the former K-Mart building. He noted the recent withdrawal of the Costco Fresh proposal at the site.

Mr. Franklin described his vision for the Kelsey Creek Shopping Center based in part on a potential rezoning of the property. He stated that he was committed to including a grocery store at the site.

Chair Bell reported his discussion with Jackie Frank regarding Costco's decision to withdraw the Costco Fresh proposal for the Kelsey Creek Shopping Center. He stated the decision was based upon the company's commitment to open an additional 30-35 new warehouse stores this year and limited management resources.

Bill Serr, 1412 153rd Place SE, reminded Council of the upcoming City Charter Special Election and nominations of freeholders. He also noted upcoming Bellevue board and commission openings. Mr. Serr encouraged community participation.

4. APPROVAL OF AGENDA

Chair Bell polled the audience for interest in the slated public hearings. Based upon audience response, Chair Bell suggested the agenda be reorganized to take up the public hearings in the following order:

- 5(d) Courtesy hearing regarding conditional use permit application by Sammamish High School
- 5(b) Public hearing regarding Ordinance 5431
- 5(c) Public hearing regarding Ordinance 5432
- 5(e) Courtesy hearing regarding conditional use application by Cingular Wireless
- 5(a) Public hearing regarding Ordinance 5430

Chair Bell noted the withdrawal of item 9(a), Costco Fresh Design Review.

Mr. Keffe moved approval of the February 4, 2003 agenda as amended. Mr. Seal seconded the motion.

Chair Bell called for additional agenda modifications.

Mr. Keffe requested the addition of agenda items 10(a), Communication pole at NE 8th and 140th, and 11(a), Commendation for 140th Improvement Project.

Motion to approve the February 4, 2003 agenda as modified carried 3-0.

5. COURTESY PUBLIC HEARINGS:

- (d) Sammamish High School – Conditional Use Permit application to construct an addition to existing high school, including 75' Performing Arts Center, an administrative wing and new main entry.

Toni Pratt, Department of Planning and Community Development, provided an overview of the application. She stated that the Bellevue School District has applied for a conditional use permit at Sammamish High School to construct a performing arts center that will contain a full stage with a 70 foot tall fly loft and catwalks, support spaces for dressing rooms, storage, scene and costume shop, a prop storage area, an orchestra pit and trap room below the stage. A new administrative wing and entryway will be included with this application as well. All work is proposed at the north end of the existing school. The new performing arts center will also contain state of the art lighting, sound reinforcement and stage management devices. In addition, the District is proposing life safety and accessibility improvements across the campus.

Brent Compton, Project Architect, detailed the proposed project and outlined the School's goals for the site's enhanced Visual Performance Arts component.

In response to Chair Bell, Ms. Pratt explained that because the proposed height exceeds the allowed 30 feet, a conditional use permit is required. She stated that, later on tonight's agenda, Council will take up consideration of Ordinance 5431 which allows additional height when required for programmatic elements.

In response to Mr. Keeffe, Ms. Berens stated the above application is for a site specific full conditional use permit.

Chair Bell stated the reason for the conditional use permit process is to assess potential impacts to surrounding area and address any possible mitigation.

Chair Bell opened the courtesy public hearing.

Mr. Eder, 15422 SE 7th Place, stated that the community has been tricked before in regards to building height in relation to the mean level. He questioned the type of roof proposed for the theatre. Mr. Compton responded, stating the proposed actual height is 73'-75'.

Chair Bell called for additional public comment.

Seeing no one wishing to comment, Mr. Keeffe moved to close the courtesy public hearing. Mr. Seal seconded the motion which carried unanimously.

In response to Mr. Keeffe, Mr. Compton stated the automatic smoke vents are a Fire Department requirement. There will be no roof equipment on top of the fly loft.

Continuing to respond to Mr. Keeffe, Mr. Compton stated the north wall is designed as a rain screen, interruption on that wall would disrupt how the screen worked.

Mr. Compton stated that the School District would like to begin this project on May 1, 2003 with completion somewhere around September 2004.

- (b) Ordinance 5431 Amending Land Use Code regulations applicable to public and private schools to allow additional height for school structures, eliminate minimum site size and playfield requirements, allow for a reduction in side and rear setbacks, modify the definition of school and impose design guidelines

Ms. Berens, Department of Planning and Community Development, provided the staff overview. Ordinance 5431 contains amendments to substantive regulations in the Land Use Code for public and private schools. With Community Council adoption, this Ordinance would create one uniform definition of schools throughout the City. The change in definition allows some flexibility to have some pre-kindergarten children in a school.

Other significant changes are related to design of schools, both public and private. This amendment would eliminate minimum site size and playfield requirements and reduce the current 50' side and rear setback applicable to schools in residential land use districts to allow for a 30' setback if the impacts of allowing a structure closer to the property line are minimal and if a landscaped buffer of increased width is provided. It will allow schools to exceed the height of the underlying land use district under two separate scenarios. The first is designed to encourage certain design features, including placement of mechanical equipment within the building as opposed to on the roof of the structure for sites 5 acres and larger, and will be processed as an administrative conditional use. The second height increase is designed to recognize the need for height increases above 30' to accommodate programmatic requirements. This application would follow the conditional use process. And, finally, this amendment would include site and building design guidelines consistent with guidelines that apply to development within transition areas.

In response to Mr. Keefe, Ms. Berens stated Ordinance 5431 impacts the Sammamish High School project in that it would allow for the additional height under the full conditional use process. She reiterated that Ordinance 5431 makes no process changes.

Chair Bell opened the public hearing.

Mr. Eder inquired as to the definition of schools, asking if this is limited to children or if dancing schools and such are applicable. Ms. Berens explained that the definition applies to state certified educational facilities with ages kindergarten through grade 12. She stated that vocational schools are treated differently under the current Land Use Code.

Gary Sutton, 1445 159th Avenue SE, questioned changes to site size and playfield requirements. Ms. Berens responded that the change would eliminate minimum site size and playfield requirements. Playfield development with outside lighting is currently regulated under a separate process.

Bart Goff stated his concern with the elimination of minimum site size and playfield requirements. Ms. Berens explained that the minimum site size and playfield requirements were originally established in the Land Use Code to reflect state regulations. The state has since eliminated such mandatory requirements, and, to remain consistent with state regulations, the City is proposing to eliminate this language as well.

Jan Benson, 511 157th Avenue SE, stated her concern that the allowance of massive school structures would dominate the surrounding residential areas. She noted the Phantom Lake School as an example.

Chair Bell called for additional public comment.

Seeing no one further wishing to speak, Mr. Keefe moved to close the public hearing. Mr. Seal seconded the motion which carried unanimously.

In response to Chair Bell, Ms. Berens clarified the proposed building height criteria, stating the Planning Commission's discomfort in leaving the height under the conditional use process open-ended.

In response to Mr. Keeffe, Ms. Berens explained that the words 'structure' and 'building' are used interchangeably in the proposed legislation.

Mr. Seal moved approval of Resolution 451 adopting City Council Ordinance 5431. Mr. Keeffe seconded the motion which carried unanimously.

- (c) Ordinance 5432 Amending Land Use Code regulations applicable to the process required for certain public and private school projects, allowing for an Administrative Conditional Use process for some projects, rather than a full Conditional Use process.

Ms. Berens provided the staff overview. She stated that there had been no substantive changes since Community Council's last review.

Chair Bell opened the public hearing.

Bart Goft questioned why conditional use code changes are not put to the general public for a vote. In response, Ms. Berens explained the full conditional use process and public involvement.

Seeing no one further wishing to provide public testimony, Mr. Keeffe moved to close the public hearing. Mr. Seal seconded the motion which carried unanimously.

Mr. Seal moved approval of Resolution 452 adopting City Council Ordinance 5432. Mr. Keeffe seconded the motion.

Mr. Keeffe stated his comfort with Ordinance 5432. He thanked Ms. Berens for all her hard work.

Motion to approve Resolution 452 carried with a vote of 3-0.

- (e) Cingular Wireless – Conditional Use Permit application to replace an existing 20' light standard with a 48' light standard including internally mounted wireless communication antenna arrays within stealth canister at 106 148th Avenue

Tony Pratt made the staff presentation. She explained that Cingular Wireless has applied for a Conditional Use Permit to replace an existing 20' tall light standard with a 48' tall light standard with antenna array located internally within the canister. The associated mechanical equipment will be screened behind a solid cedar fence along with landscaping. The pole is located in a Neighborhood Business District. There are no additional overlay standards that are applicable to this proposal.

Liz Carrasquero, representing Cingular Wireless, reviewed the proposal and explained the placement and size of the ground equipment. She stated that Cingular has chosen this site due to numerous customer complaints regarding dropped calls in the vicinity due to a hole in service along 148th Avenue NE, Main Street and NE 8th Street.

Chair Bell opened the courtesy public hearing.

Mr. Serr questioned the similarity between the proposed pole and the one at SE 16th and 145th Place on the SW corner. Responding, Ms. Carrasquero stated she was not familiar with the pole to which Mr. Serr referred, but, stated the diameter of the proposed Cingular pole is 19”.

In response to Mr. Goft, Ms. Carrasquero confirmed that wireless providers are federally licensed and required to comply with local land use codes.

Mr. Goft suggested that wireless providers consider incorporating their wireless facilities into a piece of art instead of the monopoles.

Mindy Garner, 16333 Lake Hills Blvd., stated that it would be helpful if the wireless companies combined efforts to co-locate and minimize the need for additional poles.

Hearing no further public input, Mr. Keeffe moved to close the courtesy public hearing. Mr. Seal seconded the motion which carried unanimously.

In response to Chair Bell, Ms. Berens confirmed that there are multiple antennas at Kelsey Creek on the roof top. She explained that those facilities were approved in error. Current policy disallows any additional installations at that site.

Chair Bell stated his opinion that the Kelsey Creek location is a preferable location in terms of unobtrusiveness.

Continuing to respond to Chair Bell, Ms. Berens explained why this application falls under the conditional use process.

- (a) Ordinance 5430 Amending Land Use Code regulations for the Neighborhood Business land use district to allow a limited amount of administrative office use as a permitted use in the district

Ms. Berens provided a brief background for Ordinance 5430. She stated no substantive changes have been made since Community Council’s last review on November 6, 2002.

Based on the information received and considered by the Planning Commission before and during the public hearing on this proposed Land Use Code Amendment, and considering the

need to ensure that administrative office uses do not overwhelm the NB district, the proposed ordinance allows administrative office use as follows:

- Administrative office use allowed on the first floor in NB, limited to 5,000 square feet or 25% of the footprint of the building, whichever is less; and
- Administrative office use allowed on the second floor in NB, with additional height to 30 feet, allowed for the entire footprint of the second floor, although no single administrative office user's space may exceed 5,000 square feet; and
- In no event shall administrative office uses exceed 50% of the total square footage of the building.

Chair Bell opened the public hearing.

Mr. Goft questioned if a developer built a structure with a second floor and a resulting economic downturn made occupancy impossible, what would then happen to the building? Is there some stipulation that the developer must guarantee occupancy. In response, Ms. Berens stated there is no requirement that the building be occupied.

Mr. Seal moved to close the public hearing. Mr. Bell seconded the motion which carried unanimously.

Chair Bell, in reference to Section 20.10.340, noted an additional type of arterial, the collector arterial. He suggested that the existing language that NB Districts front on designed primary or minor arterials may be restrictive by eliminating consideration of the collector arterial for neighborhood businesses.

In response to Community Council concerns regarding square footage restrictions, Ms. Berens stated staff believed that there was enough justification to make the distinction based on the size of use, as the impacts change with the size of one user as opposed to the overall size of multiple users in the a single center.

Responding the Chair Bell, Ms. Berens stated that for a second floor single administrative office use to expand beyond the 5,000 square foot limit, a variance would be required. In such a case, she doubted the ability to satisfy the variance criteria. She noted other constraints such as parking that may, practically speaking, prohibit much more development on those sites.

Mr. Keffe stated that, in regards to the Community Council's stated concern that the restriction of 5,000 square feet of space per single administrative office use may be subject to legal challenge, it is his understanding that the City has decided to risk the potential of legal action. Ms. Berens replied in the affirmative, stating the City has concluded that there is justification in making a distinction based on impacts when the size of the use gets larger.

Mr. Keffe moved approval of Resolution 450 adopting City Council Ordinance 5430. Mr. Seal seconded the motion which carried 3-0.

6. RESOLUTIONS:

- (a) Resolution No. 450 adopting City Council Ordinance 5430
- (b) Resolution No. 451 adopting City Council Ordinance 5431
- (c) Resolution No. 452 adopting City Council Ordinance 5432

Note Community Council action following respective Public Hearings.

7. REPORTS OF CITY COUNCIL, BOARDS AND COMMISSIONS: None.

8. DEPARTMENT REPORTS

- (a) Costco Fresh Design Review

Discussion withdrawn as noted under Approval of Agenda.

- (b) Kelsey Creek Shopping Center Site

Ms. Berens provided the staff report. She stated that currently there is no rezone application in play. The City is however considering initiating a rezone of the Kelsey Creek Shopping Center site that would include modifications to the existing Concomitant Agreement. Those modifications could include eliminating the requirement to reopen Kelsey Creek, as well as changes to specific development standards and uses allowed on the site.

Ms. Berens briefly reviewed discussions at recent community meetings regarding the Kelsey Creek Shopping Center in particular. She stated the application withdrawal of Costco Fresh has created some uncertainty in regards to the site, but, may also have created an opportunity to holistically look at the Center. This may be an opportunity to fully review the Concomitant Agreement, to eliminate it entirely, or substantively modify it. Ms. Berens explained the need for additional public input, stating there would be another public meeting to address the Concomitant Agreement and current restrictions.

In response to Mr. Keeffe, Ms. Berens stated the proposed rezone will be initiated by the City separate from any development proposal. She stated she would investigate the cost to the City for such an undertaking.

Continuing to respond to Mr. Keeffe, Ms. Berens stated the Kelsey Creek zoning agreement does contain, in addition to the stream reopening provision, requirement for the periodic maintenance of the culvert and slope. In working with the Utilities Department, it is staff's opinion that such maintenance has not been done since the agreement was adopted or shortly thereafter. As a condition of any further development to the site, the City would require that the dredging be accomplished. She noted some concern with the integrity of the culvert.

In response to Mr. Seal, Ms. Berens explained that the Sensitive Areas Ordinance that applies to the Kelsey Creek Shopping Center was adopted in 1987. It considers Kelsey Creek, although it is in a culvert, to be a Type A Riparian Corridor and establishes a buffer so that the parking lot currently has a swath through it (50 feet on either side) which can not be disturbed. She stated that there is also flood plain issues. If reference to the 1987 Code were removed and today's Code applied, it would still be considered a Type A Riparian Corridor but would allow modification to the required setback based on a Stream Reach Study. If such a study indicated there was no value in protecting the setback on either side, the setback could be reduced down to zero.

Mr. Seal indicated no objection as long as the stream flowed and there is air and light so that whatever fish that exists in the stream can still get through it.

Chair Bell stated he was unable to objectively comment on the current Concomitant Agreement. He stated that in the past he has recommended to the City that they undo the current Concomitant Agreement and replace it with something that makes sense for this area. The Community Council's legal counsel has pointed out that nobody else currently or in recent years use concomitant agreements like these were fashioned. Such agreements have the terrible disadvantage of pinning all future development on past codes as they existed at the time. In the view of Council's attorney, this agreement was poorly constructed and has only gotten worse. He reminded staff that since his tenure on the Community Council three or four conditional use applications have been presented in regards to this site. He noted the time and costs associated with each conditional use process. The Council has in the past recommended the elimination of both the Lake Hills and Kelsey Creek Shopping Centers' concomitant agreements in favor of instituting a zoning category that makes sense for this area. He pointed out that, at the time of the original rezone to CB with conditions, it was very clear that area residents wanted a Neighborhood Business type of operation. They wanted uses and shopping center amenities that relate to their area. Chair Bell stated that somewhere along the line, the City has lost sight of that desire. He stated that whether it is economically feasible to provide neighborhood business to serve the local community he was unable to say, but, felt the City should take this opportunity to sort this out. He suggested that the City quit ignoring NB at these little tiny sites. If the public is not willing to call the Kelsey Creek Shopping Center CB, and many are not, why not have another category of zoning that accommodates these types of sites and establishes the parameters the community desires to fit the character of the area.

Chair Bell stated that, starting Thursday night, there will be discussions regarding the Lake Hills Shopping Center focused entirely on what the Center could do to fit with everyone's expectations. He reiterated there are a number of people who want the stream beneath the Kelsey Creek Shopping Center opened.

Finally, Chair Bell reminded staff of an offset mitigation project resulting from the development at Lake Bellevue. He suggested that if mitigation is proposed for leaving the Kelsey Creek culvert buried, it should be brought out for people to have a look at.

Mr. Keeffe asked Ms. Berens to read a specific section of the January 7, 2003 draft minutes to help identify the communication pole to which the discussion refers. In response, Ms. Berens stated that she thought the discussion referred to the communication pole at Northup Way. The Clerk will review the January audio tapes for clarification.

ELECTION OF OFFICERS

(a) Resolution No. 453 – Electing East Bellevue Community Council Chair, Vice Chair and Alternate Vice Chair for the year 2003

Chair Bell opened for nominations the position of Chair for the year 2003.

Mr. Seal nominated Mr. Bell.

Chair Bell called for additional nominations.

Hearing none, nominations were closed.

Chair Bell opened for nominations the position of Vice Chair for the year 2003.

Mr. Keeffe nominated Mr. Halgren.

Chair Bell called for additional nominations.

Hearing none, nominations were closed.

Chair Bell opened for nominations the position of Alternate Vice Chair for the year 2003.

Mr. Seal nominated Mr. Keeffe

Chair Bell called for additional nominations.

Mr. Keeffe nominated Mr. Seal who respectfully declined.

Chair Bell again called for additional nominations.

Hearing none, nominations were closed.

The nominated slate of Officers are:

- Mr. Bell for the position of Chair;
- Mr. Halgren for the position of Vice Chair; and
- Mr. Keeffe for the position of Alternate Vice Chair

Mr. Keeffe moved approval of Resolution 453 with the above slate of Officers. Mr. Seal seconded the motion which carried with a vote of 3-0.

9. COMMITTEE REPORTS:

Chair Bell reported that a series of stakeholder discussions related to the Lake Hills Shopping Center will commence on February 6th. The stakeholder group is composed of sixteen members:

- 2 members of the EBCC (Jim Bell and Ken Seal);
- 4 residents selected by the EBCC (Pam Asheim, Jan Benson, Debbie Ferleman and Jane Paige);
- 4 residents selected by the West Lake Hills, CAC (Joel Glass, Jeffrey Hummer, Dough Mathews, and Faye Williamson);
- 1 City Council member (Phil Noble);
- 4 residents selected by the City (Claudia Balducci, Susan Gardner, Bea Pavlik, and Chris Wright);
- 1 representative of the Lake Hills Shopping Center (Oscar Del Moro).

10. UNFINISHED BUSINESS

- (a) Communication pole at NE 8th and 140th

Mr. Keeffe stated the issue had been addressed at the conclusion of Department Reports.

Mr. Keeffe asked that the City's purchase of the Qwest building be added to the agenda.

- (b) Qwest Building

Mr. Keeffe reported that the City had purchased the Qwest building and is just now engaging the public as to its use and the potential of relocating City Hall. He stated that he was offended that the City Council handled the largest purchase in the City's history in this fashion.

11. NEW BUSINESS

- (a) Commendation for 140th Improvement Project

Mr. Keeffe presented a draft commendation letter for the 140th Improvement Project and the efforts of the KPG study, design and implementation team of Joe Giacobazzi, Paul Fuesel and Loren Jennings. There was Council consensus to send the letter.

12. CONTINUED COMMUNICATION:

Mindy Garner offered the Community Council space on her real estate website to disseminate Council information to the community.

13. EXECUTIVE SESSION None.

14. APPROVAL OF MINUTES

(a) January 7, 2003 East Bellevue Community Council Summary Minutes

Mr. Keeffe asked that the clarification discussed earlier be made prior to approval.

There was Council consensus to postpone consideration of the January 2003 draft minutes until the next regular meeting.

15. ADJOURNMENT

Mr. Keeffe moved adjournment. Mr. Seal seconded the motion, which carried 3-0. The meeting of February 4, 2003 adjourned at 9:40 PM.

Submitted by:

Michelle Murphy, CMC
Deputy City Clerk